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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

DEC 21 2007
Dec. 21, 2007
MICHAEL W. DOBINS
CLERK, U. S. DISTRICT COURT

Angel Olden-Coe

(Name of the plaintiff or plaintiffs)

v.

Wendy's International Inc.

(Name of the defendant or defendants)

CIVIL

NO.

07CV7195
JUDGE DOW
MAGISTRATE JUDGE COX

COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.

2. The plaintiff is Angel Olden-Coe of the
county of Will in the state of ILLINOIS.

3. The defendant is Wendy's International, Inc., whose
street address is 40 Shuman Blvd. Ste 130,
(city) Naperville (county) DuPage (state) ILLINOIS (ZIP) 60563
(Defendant's telephone number) 630-961-5800

II The plaintiff sought employment or was employed by the defendant at (street address)

Wendy's Restaurant (city) Romeoville
(county) Will (state) IL (ZIP code) 60446

5. The plaintiff [check one box]

- (a) ☐ was denied employment by the defendant.
(b) ☐ was hired and is still employed by the defendant.
(c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about ~~or beginning on or about~~,
 (month) Aug, (day) 26, (year) 2005. Thru 6/16/06

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff ☒ [check one box] ☐ has ☒ has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

(i) ☒ the United States Equal Employment Opportunity Commission, on or about
 (month) 10/12/05 AND 9/19/2006

(ii) ☒ the Illinois Department of Human Rights, on or about
 (month) 10/12/05 (AND) 9/19/2006

(b) If charges were filed with an agency indicated above, a copy of the charge is attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☐ Yes (month) _____ (day) _____ (year) _____

☐ No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) _____
 (day) _____ (year) _____.

c. Attached is a copy of the

a. Complaint of Employment Discrimination,

☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)

(a) ☐ the United States Equal Employment Opportunity Commission has not issued a

Notice of Right to Sue.

(b) ☒ the United States Equal Employment Opportunity Commission has issued a

Notice of Right to Sue, which was received by the plaintiff on

(month) 9/24/07 (day) AND ~~(month)~~ 10/30/2007 of which Notice is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

(a) ☐ Age (Age Discrimination Employment Act).

(b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(c) ☒ Disability (Americans with Disabilities Act or Rehabilitation Act)

(d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(e) ☒ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(f) ☐ Religion (Title VII of the Civil Rights Act of 1964)

(g) ☒ Sex (Title VII of the Civil Rights Act of 1964) ; AND UNLAWFUL RETALIATION

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant [*check only those that apply*]

(a) ☐ failed to hire the plaintiff.

(b) ☒ terminated the plaintiff's employment. *twice*

(c) ☐ failed to promote the plaintiff.

- (d) ☐ failed to reasonably accommodate the plaintiff's religion.
- (e) ☐ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☐ failed to stop harassment;
- (g) ☐ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☐ other (specify): _____

- (1) PLAINTIFF CONTENDS THAT DEFENDANT (A)
DISCHARGED HER ON AUG 26, 2005 BECAUSE OF PHYSICAL
DISABILITIES
- (2) UNEQUAL TERMS + CONDITIONS OF EMPLOYMENT (B) UNLAWFUL
BECAUSE OF HER SEX, FEMALE, RACE, BLACK RETALIATION

13. The facts supporting the plaintiff's claim of discrimination are as follows:

- (B) UNLAWFUL TERMINATION ON 6/16/2006 BECAUSE OF
UNLAWFUL RETALIATION AND HER ON-GOING
PHYSICAL DISABILITY, A LONG TERM
BACK CONDITION;
- (4) COMPLAINANT INCORPORATES BY REFERENCE BOTH OF
HER ATTACHED CHARGES OF DISCRIMINATION INTO THIS
COMPLAINT.

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ YES ☐ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
 [check only those that apply]

- (a) ☒ Direct the defendant to hire the plaintiff.
- (b) ☒ Direct the defendant to re-employ the plaintiff.
- (c) ☐ Direct the defendant to promote the plaintiff.
- (d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) ☒ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) ☐ Direct the defendant to (specify): _____

(g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☒ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Angel Olden-Cole

(Plaintiff's name)

Angel Olden-Cole

(Plaintiff's street address)

P.O. Box 2142

(City) JOLIET (State) IL (ZIP) 60434

(Plaintiff's telephone number) (630) - 618-6775

Date: 12/13/07

LOCAL RULES 5.2 — 5.4

LR5.2. Form of Papers Filed

(a) PAPER AND FONT SIZE. Each document filed shall be flat and unfolded on opaque, unglazed, white paper approximately 8 ½ x 11 inches in size. It shall be plainly written, or typed, or printed, or prepared by means of a duplicating process, without erasures or interlineations which materially deface it. It shall be bound or secured on the top edge of the document. Where the document is typed, line spacing will be at least 1½ lines. Where it is typed or printed, (1) the size of the type in the body of the text shall be 12 points and that in footnotes, no less than 11 points, and (2) the margins, left-hand, right-hand, top, and bottom, shall each be 1 inch.

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Angel Olden-Coe
P O Box 2142
Joliet, IL 60434

From: Chicago District Office
500 West Madison St
Suite 2800
Chicago, IL 60661

Certified Mail: 7099 3400 0014 4054 4048



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21B-2006-00069

Armernola P. Smith,
State & Local Coordinator

(312) 886-5973

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

John P. Rowe

9/24/07

Enclosures(s)

John P. Rowe,
District Director

(Date Mailed)

9/25/07 Rec'd RM

cc: WENDY INTERNATIONAL INC

DISMISSAL AND NOTICE OF RIGHTS

To: **Mr. Angel Oldan-Coe**
c/o Mr. Rafael Molinary, Esq.
Attorney at Law
3930 N. Pine Grove Avenue, Ste 715
Chicago, IL 60613-5503

From: **Equal Employment Opportunity Commission**
Chicago District Office
500 West Madison Street
Suite 2800
Chicago, Illinois 60661-2511

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21BA70237**Nola Smith, State & Local Coordinator****(312) 886-5973****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

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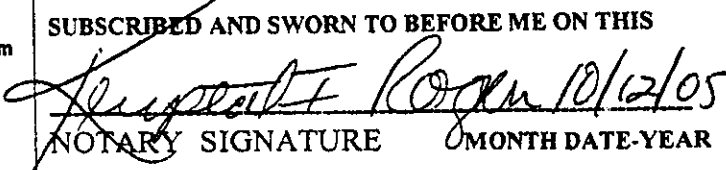
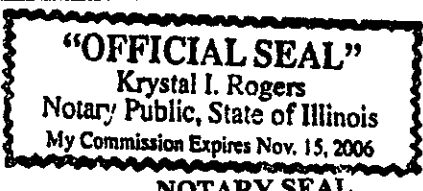

On behalf of the Commission

*John P. Rowe***John P. Rowe, District Director****OCT 30 2007**

(Date Mailed)

Enclosure(s)

cc: **Wendy's International, Inc.***Nov 1, 2007 Rec'd**RM*

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.		AGENCY <input checked="" type="checkbox"/> IDHR <input type="checkbox"/> EEOC	CHARGE NUMBER 2006CF0854
06W1012.08 Illinois Department of Human Rights and EEOC			
NAME (Indicate Mr. Ms. Mrs.) Angel Olden-Coe		HOME TELEPHONE (Include area code) (815) 722-1948	
STREET ADDRESS P. O. Box 2142		CITY, STATE AND ZIP CODE Joliet, IL 60434	DATE OF BIRTH
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)			
NAME Wendy International Incorporated		NUMBER OF EMPLOYEES, MEMBERS 15+	TELEPHONE (Include area code) (630) 961-5800
STREET ADDRESS 40 Shuman Blvd. Suite 130		CITY, STATE AND ZIP CODE Naperville, IL 60563	COUNTY DuPage
CAUSE OF DISCRIMINATION BASED ON: PHYSICAL HANDICAP RETALIATION		DATE OF DISCRIMINATION EARLIEST (ADEA/EPA) LATEST (ALL) 08/26/05 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (if additional space is needed attach extra sheet)			
I. A. ISSUE/BASIS DISCHARGE – AUGUST 26, 2005, BASED ON MY PHYSICAL HANDICAP, BACK DISORDER AND MIGRAINES B. PRIMA FACIE ALLEGATIONS 1. I am handicapped within the meaning of Section 1-103(I) of the Human Rights Act. 2. Respondent is aware of my handicap conditions, because I was injured on the job on July 25, 2005.			
Continued...			
I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		SUBSCRIBED AND SWORN TO BEFORE ME ON THIS  NOTARY SIGNATURE MONTH DATE-YEAR	
 NOTARY SEAL		 SIGNATURE OF COMPLAINANT DATE	
I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief			

Complainant: Angel Olden-Coe

Charge Number: 2006CF0854

Page 2

3. **On or about August 20, 2005, I received a letter from Respondent informing me that if I did not contact Respondent by August 20, 2005, they would take the position that I had voluntarily quit my job effective August 26, 2005. I informed Respondent that they were provided a letter from my doctor stating that I would be released to return to work in December, 2005. Respondent denied receiving my doctor's statement and I was terminated effective August 26, 2005.**
4. **My handicap is unrelated to my ability to perform the essential functions of my job.**

II. A. ISSUE/BASIS

DISCHARGE – AUGUST 26, 2005, IN RETALIATION FOR FILING A CHARGE OF DISCRIMINATION WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION OPPOSING UNLAWFUL DISCRIMINATION BASED ON MY RACE, BLACK

B. PRIMA FACIE ALLEGATIONS

1. **In April 2005, I participated in a protected activity when I filed a charge of discrimination with the EEOC opposing that which I reasonably and in good faith believed to be unlawful discrimination based on my race, black.**
2. **On July 25, 2005, I fell and injured myself during working hours. On August 20, 2005, I received a letter from Respondent informing me that I was discharged effective August 26, 2005. The reason given by Respondent for my discharge was that I failed to provide Respondent with a return to work date. Respondent was provided a letter from my attorney informing Respondent that per my treating physician I was restricted from working until December 2005. Respondent denied receiving my doctor's note and I was terminated effective August 26, 2005.**
3. **The adverse action followed my protected activity within such a period of time as to raise an inference of retaliatory motivation.**

MEE/JJT

FILING SUIT IN COURT OF COMPETENT JURISDICTION**PRIVATE SUIT RIGHTS:**

This issuance of this Notice of Right to Sue ends EEOC's process with respect to your charge. You may file a lawsuit against the respondent named in your charge within 90 days from the date you receive this Notice. Therefore you should **keep a record of this date**. Once this 90-day period is over, your right to sue is lost. If you intend to consult an attorney, you should do so as soon as possible. Furthermore, in order to avoid any question that you did not act in a timely manner, if you intend to sue on your own behalf, your suit should be filed **well in advance of the expiration of the 90-day period**.

You may file your lawsuit in a court of competent jurisdiction. Filing this Notice is not sufficient. A court complaint must contain a short statement of the facts of your case which shows that you are entitled to relief. Generally, suits are brought in the state where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office.

You may contact EEOC if you have any questions about your rights, including advice on which court can hear your case, or if you need to inspect and copy information contained in the case file.

A lawsuit against a **private** employer is generally filed in the U.S. District Court.

A lawsuit under Title VII of the Civil Rights Act of 1964, as amended, against a **State agency or a political subdivision of the State** is also generally filed in the U.S. District Court.

However, a lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or, probably, the Equal Pay Act against a **State instrumentality** (an agency directly funded and controlled by the State) **can only be filed in a State court**.

A lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or the Equal Pay Act against a **political subdivision of the State**, such as municipalities and counties, may be filed in the U.S. District Court.

For a list of U.S. District Courts, please see reverse side.

IF THE FIRST THREE CHARACTERS OF YOUR EEOC CHARGE NUMBER ARE "21B" AND YOUR CHARGE WAS INVESTIGATED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (IDHR), REQUEST FOR REVIEWING AND COPYING DOCUMENTS FROM YOUR FILE MUST BE DIRECTED TO IDHR.

ATTORNEY REPRESENTATION:

If you cannot afford or have been unable to obtain a lawyer to represent you, the court having jurisdiction in your case may, assist you in obtaining a lawyer. If you plan to ask the court to help you obtain a lawyer, you must make this request of the court in the form and manner it requires. Your request to the court should be made well before the end of the 90-day period mentioned above. A request for representation does not relieve you of the obligation to file a lawsuit within this 90-day period.

DESTRUCTION OF FILE:

If you file suit, you or your attorney should forward a copy of your court complaint to this office. Your file will then be preserved. Unless you have notified us that you have filed suit, your charge file could be destroyed as early as six months after the date of the Notice of Right to Sue.

IF YOU FILE SUIT, YOU OR YOUR ATTORNEY SHOULD NOTIFY THIS OFFICE WHEN THE LAWSUIT IS RESOLVED.

ORIG

I. A. ISSUE/BASIS

Complainant contends that Respondent subjected her to unequal terms and conditions of employment, e.g., reducing hour hours of work and placed her on a harder shift, because of her sex, female and race, Black in violation of the Illinois Human Rights Act and Title VII, the Civil Rights Act of 1964, as amended.

B. PRIMA FACIE CASE

1. Complainant is race, Black and Respondent is aware of same;
Complainant's sex is female and Respondent is aware of same;
2. Complainant contends that since May 2006 and forward Respondent has reduced her work hours to under 40 hours and placed her on a harder shift than less senior non-Black Assistant Managers;
3. Complainant states that Respondent has not subjected non-Black and non-female Assistant Managers to such reduced hours and placement on harder shifts especially given her years of service to the company;
4. Complainant always performed her assigned job duties at Respondent at an acceptable level;
5. Complainant contends that Respondent subjected her to unequal terms and conditions of employment, e.g., reducing hour hours of work and placed her on a harder shift, because of her sex, female and race, Black in violation of the Illinois Human Rights Act and Title VII, the Civil Rights Act of 1964, as amended.

II.

A. ISSUE/BASIS

Respondent terminated Complainant on June 16, 2006, because of her history of having filed previous charges of discrimination against Respondent, i.e., unlawful retaliation and because of her on-going physical disability, a long term back condition, in violation of the Illinois Human Rights Act and the Americans with Disabilities Act.

B. PRIMA FACIE CASE

1. Complainant is disabled under the Illinois Human Rights Act (Act) and the Americans with Disabilities Act (ADA).

2. Complainant's condition is long term, substantially disabling, and significantly interferes with her major life activities;
3. In spite of Complainant's disabilities, she was able to continue to perform the essential job duties of her position with a reasonable accommodation;
4. Before her termination (in May 2006), Complainant asked for a reasonable accommodation through her doctor's notes: no lifting over ten pounds (later increased to no lifting over 5 pounds) and not working more than 40 hours per week;
5. Previously Complainant had formally filed several EEOC complaints against Respondent;
6. On June 16, 2006, Complainant contends that Respondent terminated her employment because of a specious and unsustainable reason, i.e., "gross misconduct" – her purportedly rude behavior towards a customer;
7. Complainant contends that she has always performed her assigned job duties in an acceptable manner as Assistant Manager and that she has always complied with Respondent's rules regarding the treatment of customers;
8. Complainant contends that Respondent has not previously written her up for not performing her assigned job duties;
9. Complainant contends that her performance and treatment of customers as an Assistant Manager is no different than the performance of similarly situated Assistant Managers who are not disabled and who have not previously filed civil rights charges against Respondent, e.g., Debra _____; Margie _____ and Denise _____;
10. Complainant contends that the purported reason for her discharge is a pretext in that Respondent was looking for any reason to terminate her employment especially since she requested a reasonable accommodation and because of her prior charge filings against Respondent;
11. Respondent terminated Complainant on June 16, 2006, because of her history of having filed previous charges of discrimination against Respondent, i.e., unlawful retaliation and because of her on-going physical disability, a long term back condition, in violation of the Illinois Human Rights Act and the Americans with Disabilities Act.

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